

**UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE**

CHAMBERS OF
SUE L. ROBINSON
CHIEF JUDGE

LOCKBOX 31
844 KING STREET
U.S.COURTHOUSE
WILMINGTON, DELAWARE 19801

GUIDELINES FOR CIVIL TRIALS BEFORE JUDGE ROBINSON

Jury Selection. For jury trials, juries are selected by the struck juror method, a description of which is attached.

Trial days. Trial days generally run from 9:30 a.m. to 4:30 p.m., with two 15-minutes breaks (morning and afternoon) and a one-half hour lunch break. On Fridays, the trial day generally ends at 1:00 p.m.

Timed proceedings. Civil trials are timed. Counsel must complete their case (opening statements, examination of witnesses, closing argument, evidentiary disputes) in the allotted time.

Exchange of witness and exhibit information. A list of the witnesses to be called and exhibits to be offered in a party's case-in-chief shall be given to opposing counsel at least 48 hours before their proffer.

Opening statement. This is an opportunity to address the jury for the purpose of outlining the proposed evidence consistent with a party's contentions. **This is not an opportunity for argument. Failure to conform to this format may result in sanctions, either a jury instruction to disregard the opening or the loss of allotted trial time.**

Witnesses. Individuals may be called as trial witnesses if their names are disclosed by any party during discovery, even if they are not deposed during discovery. If not deposed during discovery, however, the witness must be made available for a short (limited to one hour) deposition prior to testifying at trial.

Documents. Documents may be used at trial if they are 1) disclosed during discovery or 2) not requested during discovery. Documents which are not in the possession or control of any of the parties may be used at trial if the nonparty custodian is disclosed during discovery and the documents are either disclosed or never requested.

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The parties are responsible for exchanging exhibit lists 48 hours before trial is scheduled to begin. At that time, duplicate exhibits shall be identified and, to the extent possible, the parties should decide by what single designation the exhibit shall be admitted.

The parties are responsible for placing exhibit stickers on their documents and for submitting to the courtroom deputy their proposed exhibit lists.

Copies of each exhibit must be given to opposing counsel before the exhibit is shown to a witness for admission. The "original" exhibit is given to the courtroom deputy once it has been admitted and remains in her possession for the duration of the trial.

Documents shall not be admitted except through the testimony of a witness. To avoid the necessity of approaching the witness for each exhibit, counsel may provide the witness with all the exhibits in some manageable format at the outset of his/her testimony. To save time and paper, however, the court has found that the use of a marked file per exhibit or just the exhibits clearly marked and stacked is more helpful than having bulky binders for each witness that are hard to manage in the limited space available in the witness stand.

Documents shall not be shown to the jury until they have been formally admitted through the testimony of a witness.

Evidentiary disputes. If proper notice of the witnesses and exhibits has been given, opposing counsel are expected to bring potential evidentiary disputes to the attention of the court before the witness takes the stand and/or the exhibit is offered, prior to or at the end of the trial day. Failure to conform to this procedure will result in having the objection denied without hearing.

Deposition excerpts. Deposition designations shall be provided to opposing counsel at least 48 hours before their proffer. Counter-designations shall be provided within 24 hours. All

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disputes shall be brought to the court's attention before the deposition is to be offered.

In both jury and bench trials, deposition excerpts must be read into the record (or, in the case of videotaped depositions, played for purposes of the record) and count toward a party's allotted trial time. To the extent possible, a copy of the designated excerpts should be given to the court reporters to help them follow the testimony.

Demeanor of counsel. Counsel may not approach opposing counsel's table or the witness stand without court permission. Objections to evidence shall be limited to a short statement, e.g., "Objection, hearsay." Sidebars are kept to a minimum. Common courtesies shall be extended by and between counsel.

Transition statements. Counsel are encouraged to make transition statements, to introduce witnesses and their role in the litigation.

Witness demeanor. Witnesses on cross-examination are expected to give "Yes" or "No" answers first, then give a further explanation. Witnesses who abuse their opportunity to give explanations by giving long, irrelevant answers will have their time charged to the party offering them as witnesses.

Mode and Order of Presentation. Examination of witnesses shall be limited to direct, cross, and redirect examinations.

Closing Argument. Regardless of the time allocated, any party's closing arguments may not exceed two (2) hours in total (i.e., for both opening and rebuttal arguments).

Jury Instructions. A **joint** set of instructions must be submitted. All proposed instructions must be accompanied by a disk. (We are presently using WordPerfect 9.0 format.)

Jury Deliberation. During jury deliberation, each party is responsible for providing Chambers with a telephone number by which counsel can be accessed quickly.

Attachment

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JURY SELECTION BY STRUCK JUROR METHOD

1. After the judge has read a summary of the case and the oath has been administered to the venire panel, the judge will pose the questions agreed upon by counsel.

2. Those panel members who respond affirmatively to any question are identified by their juror numbers and, upon the conclusion of the voir dire, are called (one by one) to a sidebar conference with the judge and counsel. Counsel are given the opportunity at this time to ask further questions of the responding panel members.

3. After all the responding panel members have been questioned, those panel members who are excused for cause will have their juror numbers removed from the pool.

4. The juror numbers of the remaining panel members will be placed into a container. For a typical civil case (one with two parties and scheduled to last two weeks or less), 14 juror numbers (representing 14 of the remaining panel members) will be drawn randomly from the container and listed in the order drawn. Cases with more than two parties (i.e., more than six peremptory challenges) or which require more jurors because of trial length or complexity will require a larger pool than 14.

5. The selected panel members are seated in the jury box in the order drawn. Counsel are then given the opportunity to exercise their peremptory challenges (typically three per party). The process begins with the clerk presenting to plaintiff's counsel the list. Plaintiff's counsel may strike (by drawing a line through the name of) any one of the potential jurors. The clerk next presents the list to defendant's counsel, and the process continues until each party has either exhausted or waived their challenges. Note: Once a party has indicated satisfaction with the panel by not using a challenge, it has waived its opportunity to further challenge the membership.

6. The first eight panel members who have not had their names struck shall constitute the petit jury, with all jurors deliberating.

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JURY SELECTION BY STRUCK JUROR METHOD (cont.)

7. The panel members who are not selected are excused. The panel members selected are administered their oath.

8. The judge will read preliminary jury instructions. After a short break to allow the jurors to call family members and employers, opening statements will proceed.

9. This process typically takes no more than 60 minutes.

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